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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

NELSON, FREDA ANN

ART UNIT

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3628

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/998,412	Applicant(s) CHOE ET AL.	
	Examiner FREDA A. NELSON	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10, 12, 68, 71 and 72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10, 12, 68, and 71-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The amendment received on October 20, 2008 is acknowledged and entered.

Claims 10 and 68 have been amended. Claims 1-9, 11-67, 69-70, and 73 have been canceled. No claims have been added. 10, 12, 68, and 71-72 are currently pending.

Response to Amendment and Arguments

Applicant's arguments filed October 20, 2008 have been fully considered but they are not persuasive.

1. In response to applicant's arguments in regards to claims 10 and 68, there is no teaching or suggestion that this error corresponds to "a previously established error list that specifically identifies bad dealing companies that have committed trading errors", the Examiner asserts that while Applicant's specification discloses in [0146] "the error list **may include** items for which the ordered product fails to be listed on sales items, **dealing companies** that have been placed on a **black list as a bad trading company**", the Examiner is unable to locate "error list that **specifically identifies bad dealing companies** that have **committed trading errors**". Furthermore, Chaturvedi et al. disclose database 50 may store information concerning past performance of buyers 12, suppliers 14, or other marketplace participants. For example and without limitation, database 52 may store: (1) buyer profiles for one or more buyers 12 containing buyer-provided criteria for suppliers 14 or other participants (e.g., financial agents); (2) supplier profiles for one or more suppliers 14 containing supplier-provided criteria for

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buyers 12 or other participants (e.g., financial agents); (3) ratings for one or more suppliers 14 (generally, as to one or more activities, or under one or more circumstances) generated automatically by marketplace 16 based on its monitoring of supplier performance over time, based on ratings or other feedback received over time from one or more buyers 12, or any combination of marketplace-generated and buyer-provided supplier performance information; and (4) ratings for one or more buyers 12 (generally, as to one or more activities, or under one or more circumstances) generated automatically by marketplace 16 based on its monitoring of buyer performance over time, based on ratings or other feedback received over time from suppliers 14, or any combination of marketplace-generated and supplier-provided buyer performance information. Such information may be used in connection with decisions to be made at any stage of an appropriate planning funnel 18 (col. 11, line 50-col. 12, line 6).

Examiner's Note

2. With respect to the Official Notice taken in the previous office action, Examiner notes the following discussion of Official Notice taken from the MPEP:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also *Chevenard*, 139 F.2d at 713, 60 USPQ at 241 ("[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention."). A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice would be inadequate. If applicant adequately traverses the examiner's assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR

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1.104(c)(2). See also Zurko, 258 F.3d at 1386, 59 USPQ2d at 1697 ("[T]he Board [or examiner] must point to some concrete evidence in the record in support of these findings" to satisfy the substantial evidence test). If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2). If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate. (MPEP § 2144.03(C))

Applicant has not "specifically pointed out the supposed errors in the Examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art." For these reasons, the limitations for which Official Notice was taken in claim 12 is considered to be admitted prior art because Applicant has not proffered an adequate traversal.

Claim Rejections - 35 USC § 112, 1st Paragraph

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 10 and 68 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to

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one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

4. As per claims 10 and 68, while Applicant's specification discloses in [0146] "the error list **may include** items for which the ordered product fails to be listed on sales items, **dealing companies** that have been placed on a **black list as a bad trading company**", the Examiner is unable to locate "error list that **specifically identifies bad dealing companies** that have **committed trading errors**."

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10 and 68 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. The term "bad" in claims 10 and 68 is a relative term which renders the claim indefinite. The term "bad" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear what is considered a "bad dealing company".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson et al. (US Patent Number 6,324,522), in view of Chaturvedi et al. (US Patent Number 6,963,849).

7. As per claims 10 and 68, Peterson et al. disclose an e-commerce system, comprising:

a database server to store information about a plurality of dealing companies and order restriction information of a plurality of products (col. 8, lines 18-26; col. 41, lines 51-61; FIGS. 13-16); and

a web server, coupled to the database server, and configured to operate a web site to receive on-line orders for an on-line sale of each of the plurality of products, acquire information about the respective products and dealing companies and registering the acquired information to the database server, and perform order control for order-generating dealing companies, when an order for a product purchase is generated from the corresponding dealing companies (col. 43, lines 19-30).

an order control set-up server coupled to the database server and web server, and configured to restrict prescribed orders for each of the dealing companies based on information about the respective dealing companies (col. 5, lines 4-15; FIGS. 13-16).

Petersen et al. do not expressly disclose a database server storing credit information for each of the plurality of dealing companies; and the information of the respective dealing companies used to restrict prescribed orders relates to past

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performances of the corresponding dealing companies; and wherein the product order error is obtained from a previously established error list that identifies dealing companies having bad errors.

However, Chaturvedi et al. disclose ratings or other performance information may reflect performance of a potential partner during prior pre-execution phases of the same or one or more previous execution cycles, prior execution phases of one or more previous execution cycles, or prior post-execution phases of one or more previous execution cycles. For example, the marketplace 16 may provide information about past performance of suppliers 14 to a buyer 12 to allow the buyer 12 to determine whether, to what extent, and under what conditions to purchase from a particular supplier 14. Similarly, marketplace 16 may provide information about the past performance of buyers 12 to a supplier 14 or another participant (such as a financier or other financial entity) to allow the supplier 14 or other participant to better determine whether, to what extent, and under what conditions to transact business with a particular buyer 12 (col. 3, lines 17-37 ***{The Examiner interprets this to mean obtaining errors from a list of errors and companies with errors (based on performance)}***). Chaturvedi et al. further discloses database 50 may store information concerning past performance of buyers 12, suppliers 14, or other marketplace participants. For example and without limitation, database 52 may store: (1) buyer profiles for one or more buyers 12 containing buyer-provided criteria for suppliers 14 or other participants (e.g., financial agents); (2) supplier profiles for one or more suppliers 14 containing supplier-provided criteria for buyers 12 or other participants (e.g., financial agents); (3) ratings for one or

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more suppliers 14 (generally, as to one or more activities, or under one or more circumstances) generated automatically by marketplace 16 based on its monitoring of supplier performance over time, based on ratings or other feedback received over time from one or more buyers 12, or any combination of marketplace-generated and buyer-provided supplier performance information; and (4) ratings for one or more buyers 12 (generally, as to one or more activities, or under one or more circumstances) generated automatically by marketplace 16 based on its monitoring of buyer performance over time, based on ratings or other feedback received over time from suppliers 14, or any combination of marketplace-generated and supplier-provided buyer performance information. Such information may be used in connection with decisions to be made at any stage of an appropriate planning funnel 18 (col. 11, line 50-col. 12, line 6). Chaturvedi et al. further disclose at step 106, ADW 40 may validate one or more suitable aspects of the set-up information. If errors exist at step 108, an error log is generated and communicated to supplier 14 at step 110; and the error log is placed in a specified data storage location associated with supplier 14, such as behind a firewall that secures this information against unauthorized access. At step 112, supplier 14 accesses the error log, makes appropriate corrections, and regenerates some or all of the set-up information for the supplier 14. The method then returns to step 102. If no errors exist at step 108, then set-up is complete for supplier 14 at step 114 (col. 12, line 59- col. 13, line 3).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Petersen et al. to include the feature of Chaturvedi et al. in order to select providers of service based on performance since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson et al. (US Patent Number 6,324,522), in view of Chaturvedi et al. (US Patent Number 6,963,849) as applied to claims 10 and 68 above, and further in view of in view of Kirsch (Patent Number 5,963,915).

9. **As per claim 12**, Peterson et al. do not expressly disclose the system of claim 10, wherein the order control set-up server further to restrict prescribed orders based on the order restriction information of the products in the database server, the restriction information including at least one of amounts in stock by the respective models of sales products, sale or sale-suspension of the respective models of the sales products, out-of-production or production of the respective models of the sales products. However, the Examiner takes Official Notice that it is old and well known in the business industry to place restrictions on orders so products are not ordered which are out of stock or not carried by the merchant. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Peterson et al. to

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include the feature of restricting orders in order to maintain ordering structure since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

10. Claims 71-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson et al. (Patent Number 6,324,522), in view of Chaturvedi et al. (US Patent Number 6,963,849), as applied to claims 10 and 68 above, and further in view of Leonard et al. (Patent Number 6,085,171).

11. As per claims 71-72, Peterson et al. do not expressly disclose the system of claim 10, wherein the order control set-up server further to restrict prescribed orders based on the order restriction information of the products in the database server, the order restriction information of the tangible products relates to a minimum quantity of the available quantity of the corresponding tangible product; wherein the information of the respective dealing companies used to restrict prescribed orders relates to order-restricted products associated with a distribution channel of the corresponding dealing company; and wherein the information of the respective dealing companies used to restrict prescribed orders relates to past performances of the corresponding dealing companies and wherein the order control server to obtain information about product order errors and to determine whether a product order error associated with a tangible product in a received order is correct, wherein the product order error is obtained from a previously established error list that identifies dealing companies having bad errors.

However, Kumar et al. discloses that fulfillment server 16 may maintain information regarding suppliers and parent-child or other hierarchical relationships between suppliers, which fulfillment server 16 may use for order promising and other suitable purposes, as discussed more fully below. In one embodiment, definitions for suppliers maintained at fulfillment server 16 may include, in any suitable combination, without limitation: (1) name, (2) description, (3) category, (4) parent, (5) children, (6) the products the supplier provides, (7) the groups associated with the supplier, (8) ranked or other list of preferred customers for a given product, (9) acceptable alternates or substitutes for a given product, (10) minimum and maximum quantities for orders, (11) order quantity constraint not allowing fulfillment server 16 to reduce the quotation quantity without affecting validity of quotation, (12) cancellation restrictions, (13) cancellation window outside of which orders cannot be canceled, (14) communications protocols supported by the supplier for receiving requests for quotation, quotation acceptances, cancellations, and/or other information; (15) communications protocols supported by the supplier for communication quotations, promises, acceptances, and/or other information; and (16) network addresses used to communicate with the supplier (paragraph [0033]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Petersen et al. to include the feature of Kumar et al. in order to provide suppliers a way of quoting more accurate delivery information to meet customer orders (Kumar, [0008]).

Examiner's Note

12. Examiner cited particular pages, columns, paragraphs and/or line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freda A. Nelson whose telephone number is (571) 272-7076. The examiner can normally be reached on Monday -Wednesday and Friday, 10:00 AM -6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. A. N./
Examiner, Art Unit 3628

/John W Hayes/
Supervisory Patent Examiner, Art Unit 3628